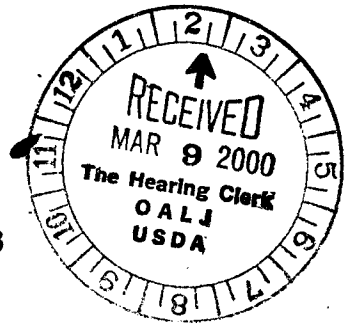


Ennis

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) PACA Docket No. 00-0003
)
Ro Bee Sons, Inc.,)
)
)
)
Respondent)

Decision Without Hearing by Reason of Consent

This disciplinary proceeding, brought under the Perishable Agricultural Commodities Act, 1930, as amended, (7 U.S.C. § 499a *et seq.*), hereinafter the PACA, was instituted by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture, on October 21, 1999, by a complaint alleging that Respondent wilfully, flagrantly, and repeatedly violated section 2(4) of the PACA (7 U.S.C. §499b) by failing to make full payment promptly of the agreed purchase prices, in the total amount of \$78,782.63, to 11 sellers for 48 lots of perishable agricultural commodities which it purchased, received, and accepted in interstate commerce between December 1996 and April 1997; and by failing to remit to two growers, net proceeds in the total amount of \$1,211.00 from the sale of six lots of perishable agricultural commodities purchased in the course of interstate commerce between November 1996 and April 1997.¹

The complaint requests a finding that Respondent has committed wilful, flagrant, and repeated violations of Section 2(4) of the PACA (7 U.S.C. §499b) and an order that the facts and circumstances of Respondent's violations be published.

¹The parties agree for the purpose of settlement that this allegation should have asserted that Respondent failed to pay brokerage in the total amount of \$1,200.00 to two brokers, and agree to the entry of Finding of Fact 6 without formal amendment of the complaint.

The parties have agreed to the issuance of a consent decision and Complainant has moved for this Decision and Order to be entered without hearing or further procedure, pursuant to section 1.138 of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted By the Secretary (7 C.F.R. 1.138), hereinafter the Rules of Practice.

Findings of Fact

1. Ro Bee Sons, Inc., hereinafter Respondent, is a corporation organized and existing in the state of Florida. Its business address is 8421 State Road 7, Boynton Beach, Florida 33424. Its mailing address is P.O. Box 639, Pompano Beach, Florida 33061.
2. At all times material herein, Respondent was licensed under the PACA. License number 962700 was issued to Respondent on September 30, 1996. That license was suspended on October 30, 1997, pursuant to Section 13(a) of the PACA (7 U.S.C § 499m), when Respondent failed to allow inspection of its records. The license terminated as of September 30, 1997, when Respondent failed to pay the required annual renewal fee.
3. As set forth in section III of the complaint, Respondent failed to make full payment promptly of the agreed purchase prices, in the total amount of \$71,483.98, to ten sellers for 45 shipments of perishable agricultural commodities which it purchased, received, and accepted in interstate commerce between December 1996 and April 1997.
4. Respondent has now made payments totaling \$71,483.98 to these ten sellers.
5. Respondent was the prevailing party in a reparation proceeding with the remaining seller alleged unpaid in the complaint.
6. As set forth in section IV of the complaint, Respondent failed to pay brokerage to two brokers in the total amount of \$1,211.00 from the sale of six lots of perishable agricultural commodities purchased in the course of interstate commerce between November 1996 and April

1997.

7. Respondent has now made payments totaling \$1,211.00 to these two growers.

Conclusions

Respondent's failures to make full payment promptly for produce purchases, as set forth in Finding of Fact 3, and Respondent's failures to pay brokerage to brokers, as set forth in Finding of Fact 6, constitute wilful, flagrant, and repeated violations of Section 2(4) of the PACA (7 U.S.C. §499b), for which the Order below is issued.

Order

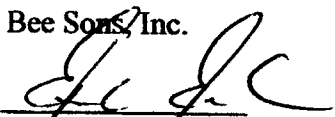
Respondent is assessed a civil penalty in the amount of Ten Thousand (\$10,000.00) dollars. Respondent shall pay Two Thousand Two Hundred (\$2,200.00) dollars of this civil penalty immediately, and shall pay the balance in six monthly payments of One Thousand Three Hundred (\$1,300.00) beginning on the 30th day following the issuance of this consent decision and monthly thereafter.

A finding that Respondent has committed repeated or flagrant violations of the PACA is held in abeyance during the period provided for the payment of the assessed civil penalty. If the assessed civil penalty is paid in full as provided, this finding shall be waived and no licensing and employment sanctions shall apply to any person who was responsibly connected to Respondent.

In accordance with section 1.138 of the Rules of Practice (7 C.F.R. §1.138), this Decision is final and shall become effective upon issuance.

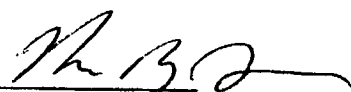
Copies hereof shall be served on the parties.

Ro Bee Sons, Inc.



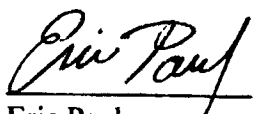
By: Kenneth Kodish

Title: President (during period of violations)



Thomas B. Bacon

Attorney for Respondent



Eric Paul

Attorney for Complainant



Associate Deputy Administrator
Fruit and Vegetable Programs
Agricultural Marketing Service

Done at Washington, D.C.

This 9 day of March, 2000



Administrative Law Judge